

**THE BOARD OF VOCATIONAL NURSING AND
PSYCHIATRIC TECHNICIAN EXAMINERS**

**JOINT LEGISLATIVE SUNSET
REVIEW COMMITTEE REPORT TO THE
CALIFORNIA LEGISLATURE**

**Board Overview, Issues, Findings
and Recommendations**

**Prepared by:
Joint Legislative Sunset Review Committee**

APRIL, 1997

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1.

OVERVIEW OF THE CURRENT REGULATORY PROGRAM

BACKGROUND AND DESCRIPTION OF THE BOARD

Established in 1951 (Vocational Nurse Program) and 1959 (Psychiatric Technician Program), the board is responsible for administering the laws related to the practice of licensed vocational nurses and psychiatric technicians. In 1970, the Psychiatric Technician certification program was changed to a licensure program based upon the passage of Senate Bill 298.

Licensed Vocational Nurses (LVNs) provide basic bedside nursing care to clients under the direction of a physician or registered nurse. The LVN utilizes scientific and technical expertise and manual skills. Duties within the scope of practice of an LVN typically include, but are not limited to, provision of basic hygienic and nursing care; measurement of vital signs; basic client assessment; documentation; performance of prescribed medical treatments; administration of prescribed medications; and, performance of non-medicated intravenous therapy and blood withdrawal (requires separate board certification).

The LVN provides care for clients in a variety of health care settings. Typically, the LVN is employed in the following types of facilities:

- ◇ Acute Care Hospitals
- ◇ Skilled Nursing or Long Term Care Facilities
- ◇ Home Health Agencies
- ◇ Ambulatory Care Clinics
- ◇ Surgery Centers
- ◇ Physicians' Offices
- ◇ Correctional Facilities

Upon completion of additional specialized training, LVNs may also be employed in specialty care areas such as Intravenous Therapy Teams, Critical Care Units, Telemetry Units, Hemodialysis Units, Gastroenterology Laboratories and Genitourinary Laboratories.

Psychiatric Technicians (PTs) provide care for mentally disordered or developmentally disabled clients under the director of the services. The director may be a physician, psychologist, rehabilitation therapist, social worker, registered nurse or other professional personnel. The PT utilizes scientific and technical expertise and manual skills to provide care and training for clients with mental disorders and developmental disabilities. Duties

within the scope of practice of a PT typically include, but are not limited to, basic hygiene and nursing care; measurement of vital signs; performance of prescribed medical treatments; administration of prescribed medications; implementation of behavioral management techniques; crisis intervention; sensory and perceptual development assessment; social and vocational training; and, the facilitation of individual and group therapeutic activities.

The PT also provides care for patients in a variety of health care settings. Typically, the PT is employed in the following types of facilities:

- ◇ State Hospitals
- ◇ County, City, & Private Inpatient Psychiatric Facilities
- ◇ State Developmental Centers
- ◇ Psychiatric Emergency Assessment & Treatment Teams
- ◇ Sheltered Workshops & Vocational Training Centers
- ◇ Respite Care Teams
- ◇ Group Counseling Services

Mission: The mission adopted by the board is to protect the public welfare by ensuring that only qualified persons are LVNs and PTs and that appropriate education, standards of competency and practice are established and enforced.

Programs: The board's regulatory programs focus on consumer protection and consumer education. To this end, the board rigorously protects the consumer by:

- ◇ Establishing minimum requirements for licensure;
- ◇ Accrediting the California VN and PT Schools in California;
- ◇ Requiring continuing education to maintain knowledge and skills prior to license renewal;
- ◇ Educating consumers regarding their rights through brochures, fact sheets, and newsletters;
- ◇ Adopting regulations to clarify the performance standards for LVNs and PTs;
- ◇ Enforcing the rules and regulations governing the practice of LVNs and PTs.

All States Regulate LVNs And Four States Regulate PTs.

Board Composition:

Eleven (11) Board Members: **6 Industry:** 3 LVNs; 2 PTs; 1 registered nurse;

5 Public

Governor's Appointees: 9;

Senates Rules Appointee: 1 Public Member

Assembly Speaker Appointee: 1 Public Member

- ◇ ***Three members*** shall be LVNs who have been licensed for a period of not less than three years prior to appointment, one of whom shall be active in the practice

- of vocational nursing engaged primarily in direct patient care with at least three continuous years of experience in skilled nursing facilities which are not associated with a hospital and who shall not be engaged as a teacher or administrator of a nursing education program under the provisions of this chapter;
- ◇ **Two members** shall be licensed PTs, each of whom shall have had no less than five years' experience in a psychiatric hospital, or in a psychiatric unit of a hospital licensed by the Department of Health Services, or a private institution licensed by the Department of Health Services;
 - ◇ **One member** shall be a LVN or registered nurse who shall have had not less than five years' experience as a teacher or administrator in an accredited school of vocational nursing; and
 - ◇ **Five members** shall be public members who are not licentiates of the board or any other board under this division or of any board referred to in Sections 1000 and 3600.
- **Appointing authority:** Prior to January 1, 1983, all board members were appointed by the Governor. Senate Bill 1911 (Chapter 676, Statutes of 1982) amended each licensing act to allow the Speaker of the Assembly and the Pro Tempore of the Senate to each make one public member appointment.
 - **Vacancies** -- Currently, there are three (3) board member vacancies (i.e., 1 LVN member; and 2 public members). In general, it has taken 2-18 months for members to be appointed to the board. However, two positions have been vacant for at least four years (1 LVN and 1 public member).

Licensees, School Programs and Fees:

	VN PROGRAM	PT PROGRAM	TOTALS
Total # of Licensees	97,401	16,986	114,387
Total # of Accredited/Approved Programs	78	14	92
License Fee Charged	\$75	\$160	

The board currently regulates the practice of approximately **97,000 LVNs and 17,000 PTs, the largest groups of LVNs and PTs in the nation. The board also accredits and approves the 78 VN Programs and 14 PT Programs.** The chart below reflects the total number of active, inactive and delinquent licenses; and the number of school programs currently under the board's regulatory authority as of July 1, 1996:

	VN PROGRAM	PT PROGRAM
# of "Active" Licenses	65,836 (includes 42 VNR*)	11,204

# of "Inactive" Licenses	5,651	692
# of "Delinquent" Licenses	25,914 (includes 56 VNR*)	5,090
TOTAL # OF LICENSEES	97,401	16,986
# of Accredited/Approved Programs	78	14
# of "Proposed" Programs under Review**	11	-0-
TOTAL # OF PROGRAMS	89	14
<p>* VNR is defined as a holder of a restricted VN license. Emergency legislation enabled individuals employed as of August 8, 1988 by the Department of Corrections and the Department of the Youth Authority to obtain a restricted license. No one else was eligible for this restricted license after August 8, 1988.</p> <p>** Anyone interested in starting a VN or PT School or Program must apply to the board for accreditation/approval. All such applications are considered "proposed programs" until approval has been granted by the board. Such programs are assigned to Nursing Education Consultants and are closely monitored for compliance of accreditation regulations.</p> <p>Note: An "active" license means that the renewal fee has been paid and the 30 hours of continuing education (CE) have been met.</p> <p>An "inactive" license means that the renewal fee has been paid but the 30 hours of CE have <u>not</u> been met. As a result, the licensee cannot practice or represent himself/herself as a licensee.</p> <p>A "delinquent" license means that the renewal fee has <u>not</u> been paid.</p>		

BUDGET AND STAFF

Budget & Staff Allocations

This chart summarizes the BVNPTE budget authority and staff allocations. Additional fiscal information follows.

	VN PROGRAM	PT PROGRAM	TOTALS
Budget Authority -- FY 1996/97	\$3,561,400	\$916,400	\$4,477,800
Total # of Authorized Positions	31.1	4.8	35.9

Expenditure Categories

Listed below is the breakdown of expenditures by program component for the VN and PT Program.

Expenditure Categories	VN PROGRAM				PT PROGRAM			
	1992/93	1993/94	1994/95	1995/96	1992/93	1993/94	1994/95	1995/96
Enforcement	\$1.374 million	\$1.508 million	\$1.480 million	\$1.485 million	\$490,673	\$371,516	\$507,643	\$547,295
Exam and Licensing	\$1.403 million	\$1,291 million	\$1.302 million	\$1.260 million	\$402,346	\$392,389	\$384,855	\$381,745
Education	\$510,417	\$509,101	\$541,774	\$566,979	\$ 53,504	\$ 55,594	\$ 63,737	\$ 61,887

Administration	\$177,168	\$192,413	\$198,416	\$201,581	\$ 71,100	\$ 74,575	\$ 84,090	\$ 76,884
Total Cost Per Year	\$3.466 million	\$3.500 million	\$3.521 million	\$3.514 million	\$1.018 million	\$894,074	\$1.040 million	\$1.068 million
Note: The above expenditure figures <u>do not include</u> the State Controller's Office late billing adjustments.								

Fund Conditions & Fund Reserves

The board's current fund condition, effective September 1, 1996, indicates that the VN Fund and PT Fund are as follows:

	VN FUND				PT FUND			
	1993/94	1994/95	1995/96	Projected 1996/97	1993/94	1994/95	1995/96	Projected 1996/97
Revenue	\$4,227,829	\$3,993,729	\$3,875,405	\$3,810,708	\$1,069,926	\$1,219,507	\$1,150,192	\$999,623
Expenditures	\$3,499,682	\$3,521,746	\$3,514,528	\$3,200,000	\$894,169	\$1,040,742	\$1,143,258	\$898,000
Fund Balance	\$728,147	\$471,983	\$360,877	\$610,708	\$175,757	\$178,765	\$6,934	\$101,623
Months in Reserve	2.5	1.6	1.4	2.2	2.0	1.9	0.1	1.3
Note: The above expenditure figures <u>include</u> the State Controller's Office late billing adjustments.								

At this time, the board does not anticipate any budget change proposals or request for statutory fee changes. However, this assumes that revenue and enforcement costs meet the board's projections.

Revenue Sources & Fee Structure

The board is a special fund agency which derives its operating monies from its licensees and examination applicants, not the General Fund. The board's sole source of revenue is based upon the fees charged for nine (9) service categories. They are:

CATEGORY	VOCATIONAL NURSE FEES (Effective 1/1/91)	PSYCHIATRIC TECHNICIAN FEES (Effective 1/1/94)
Initial Examination Application	\$50	\$50
Re-Examination Application	\$75	\$50
Interim Permit	\$40	\$20
Initial License (for 2 years)	\$75	\$160
Renewal (for 2 years)	\$75	\$160
Delinquent Renewal	\$37.50	\$80
Duplicate License	\$25	\$20
Endorsements	\$75	\$20
Continuing Education Provider Approval	\$200	\$150

With the exception of the PT Continuing Education Provider fee, the board's fees are specifically set by statute. *The board does not have authority to raise or lower its fees by regulation.* The PT Continuing Education Provider fee is established, *by regulation*, at its statutory maximum.

LICENSING REQUIREMENTS

The purpose of the board's licensing program is to protect the health, safety and welfare of California consumers who receive health care from LVNs and PTs. The board ensures that its licensees possess the skills and abilities necessary to practice safely, and that they maintain knowledge of current trends and techniques in the practice of nursing. The board has taken proactive steps to ensure that entry into the VN and PT profession is not restricted by artificial barriers.

Education & Experience Required for Examination: Vocational Nurse Program

Applicants for licensure as **LVNs** in California must meet *all* of the following requirements in addition to *one* of five methods of qualifying for examination.

- ◇ Minimum age -- 17 years;
- ◇ Completion of the 12th Grade of schooling or its equivalent;
- ◇ After successful completion of the examination, the applicant must submit an initial license fee;
- ◇ Have committed no act which, if committed by an LVN, would be grounds for disciplinary action; and
- ◇ Business and Professions Code Section 30 requires all applicants to provide the board with a social security number prior to scheduling an examination or for license renewal. The board is unaware of any other state which establishes this requirement.

There are *five different methods to qualify* for licensure as an **LVN** in California. *California is the only state in the nation which allows applicants five different methods of qualifying for VN licensure.* All other states require applicants to graduate from a VN School to be eligible for licensure. All applicants for licensure under Section 2873 of the Business and Professions Code must meet the requirements of one of the following qualification methods:

- ◇ Graduation from an "Accredited" School of VN in California;
- ◇ Graduation from an "Approved" School of VN in California and completion of 36 months of verified full-time paid work experience in medical/surgical nursing in a general acute care facility;
- ◇ Completion of 51 months of paid general duty bedside nursing experience consisting of a minimum of 48 months of medical/surgical nursing, 1.3 months of maternity nursing, and 1.3 months of pediatric nursing; and completion of a 54 theory hour course in pharmacology. (Applicants with formal nursing education may submit official transcripts for a determination of possible credit in lieu of paid bedside nursing);
- ◇ Completion of at least 12 months active duty bedside patient care in the medical corps of any branch of the Armed Forces of the United States; proof of completion of a basic course of nursing while in the armed forces; and proof that service has been honorable; or
- ◇ Graduation from an Out-of-State Accredited School of Practical/Vocational Nursing.

The specific educational requirements vary depending on the method by which the applicant has chosen to qualify. Applicants may qualify either by education, experience, or a combination of education and experience. Work experience must be verified by a registered nurse or supervisor. The board does not mandate that the applicant gain experience under the supervision of a licensee of this board. Regulations require that if an applicant chooses to qualify by work experience, said experience must be paid work experience. Volunteer work is not acceptable.

The National Council of State Boards of Nursing (NCSBN's) annual report indicates that *California is the least restrictive state in the country with respect to licensure requirements*. The majority of States require graduation from a school of nursing. California is the only State that allows applicants to qualify based on a combination of education and work experience; and only one other State allows applicants to qualify based on military experience.

Education & Experience Required for Examination: Psychiatric Technician Program

Applicants for licensure as **PTs** in California must meet *all* of the following requirements in addition to *one* of four methods of qualifying for examination.

- ◇ Minimum age -- 18 years;
- ◇ Completion of the 12th Grade of schooling or its equivalent;
- ◇ Successful completion of a written examination titled the California PT Licensure Examination;
- ◇ After successful completion of the examination, the applicant must submit an initial license fee;
- ◇ Have committed no act, which if committed by a licensed PT, would be grounds for disciplinary action; and
- ◇ Business and Professions Code, Section 30, requires all applicants to provide the board with a social security number prior to scheduling an examination or for license renewal. The board is unaware of any other state which establishes this requirement.

There are *four different methods to qualify* for licensure as a **PT** in California. All applicants for licensure under Section 4511 of the Business and Professions Code must meet the requirements of one of the following qualification methods:

- ◇ Graduation from an "Accredited" PT Program in California;
- ◇ Graduation from an "Approved" PT Program in California and completion of a minimum of 18 months of paid work experience in the care of physically ill, mentally disordered and developmentally disabled patients;
- ◇ Completion of 576 hours of theory, including a 54-hour course in pharmacology, and 954 hours of supervised clinical experience. Paid work experience may be substituted for supervised clinical experience; or

- ◇ Completion of an armed forces course involving neuropsychiatric nursing and a minimum of 12 months of verified work experience in caring for mentally disordered and developmentally disabled clients.

The specific educational requirements vary depending on the method by which the applicant has chosen to qualify. Applicants may qualify either by education, or a combination of education and work experience. Work experience must be verified by a licensed physician and surgeon, psychiatrist, psychologist, rehabilitation therapist, social worker, registered nurse or other professional personnel. Regulations require that if an applicant chooses to qualify by work experience, said experience must be paid work experience. Volunteer work is not acceptable.

Out-Of-State Licensing Requirements

A **VN** applicant who is already licensed by a similar board **in another state** shall be eligible for licensure *without examination* provided that the applicant meets all the requirements for licensure described in Section 1 herein; and

- ◇ Presents satisfactory proof of a current and valid license as an LVN or practical nurse, or in an equivalent capacity, by another state, a territory of the United States, or a foreign country; and
- ◇ Took the NLN State Board Test Pool Examination for Practical Nurses or the NCLEX-PN and passed that examination with a score equal to or above the minimum passing score required by the board for that exam.

A **VN** applicant who is already licensed by a similar board **in another country** is required to meet the same criteria as any other applicant. As the NCLEX-PN is not currently administered in any other country, these applicants are required to successfully complete the examination to be eligible for licensure.

A **PT** applicant who is already licensed by a similar board **in another state** shall be eligible for licensure *without examination* provided that the applicant meets all of the requirements for licensure as described in Section 2 herein; and

- ◇ Presents satisfactory proof of a current and valid license as a PT in that state; and
- ◇ Took the "California" PT Licensure Examination and passed the examination with a score equal to or above the minimum passing score required by the board.

Only three other states license PTs similar to California. They are Arkansas, Colorado and Kansas. There is no national examination.

A **PT** applicant who is already licensed by a similar board **in another country** is required to meet the same criteria as any other applicant. As the California PT Licensure Examination is not currently administered in any other foreign country, these applicants are required to successfully complete the examination to be eligible for licensure.

Examination Statistics

The following chart reflects the number of VN and PT applicants tested; the California examination pass percentage rate; and the national pass percentage rate for the past four years.

EXAM DATA	VN PROGRAM				PT PROGRAM			
	1992/93	1993/94	1994/95	1995/96	1992/93	1993/94	1994/95	1995/96
Total # Tested in California (CA)	10,547	6,779	7,252	6,917	748	681	632	432
CA #Pass and %Pass Rate	3,629	2,670	3,244	3,431	439	375	375	238
"First-Time" Applicants	66%	67%	76%	80%	83%	80%	82%	77%
CA #Pass and %Pass Rate	1,345	440	784	690	65	56	54	26
"Repeat" Applicants	27%	16%	26%	26%	30%	27%	31%	21%
CA #Pass & %Pass Rate	2,725	2,361	2,311	2,515	403	352	357	221
"School Graduates"*	79%	77%	88%	89%	83%	80%	83%	77%
National %Pass Rate	76%	87%	88%	91%	** N/A	** N/A	** N/A	** N/A
"School Graduates"								
National %Pass Rate	33%	29%	42%	43%	** N/A	** N/A	** N/A	** N/A
"Repeat" Applicants								
<p>* California is the only state which allows applicants to qualify through work experience. All other states require graduation from an accredited school of nursing. Therefore, the pass rate for first-time school graduates is provided to allow an accurate comparison to the national pass rate.</p> <p>** As there is no national examination for PTs, a comparison to national pass rates cannot be made.</p>								

Examination

The board is responsible for examination and licensure of over 7,000 VN applicants annually. The board contracts with the National Council of State Boards of Nursing for the year-round computer-adaptive licensure examination administered at over 200 test centers nationwide.

There is no national licensure examination for PTs. The board develops and administers a year-round computer-administered examination to approximately 450 PT applicants annually at two test centers (Sacramento and Los Angeles).

Licensing Statistics

The chart below reflects the number of "active, inactive, and delinquent" licenses, renewals processed, and examination applicants for each program over the past four years.

	VN PROGRAM				PT PROGRAM			
	1992/93	1993/94	1994/95	1995/96	1992/93	1993/94	1994/95	1995/96
# of "Active" Licenses*	64,216	65,285	65,586	65,836	13,146	12,848	11,966	11,204
# of "Inactive" Licenses**	5,976	5,944	5,837	5,651	N/A *****	10	385	692
# of "Delinquent" Licenses***	31,430	35,808	26,106	25,914	6,144	4,651	5,757	5,090
Total# of Licensees	101,622	107,037	97,529	97,401	19,290	17,509	18,108	16,986
# of Renewals Processed	26,801	31,809	29,231	29,409	12,572	6,080	5,570	5,249
# of Exam Applicants	10,547	6,779	7,252	6,917	748	681	632	432
# Initially Licensed	5,550	5,735	4,783	4,548	526	469	392	304
# Denied Licensure****	19	10	13	24	6	3	7	5
<p>Note: The board converted from an annual to biennial renewal cycle for PTs beginning July 1993. The board implemented year-round computerized testing for LVNs in April 1994.</p> <p>* An "active" license means that the renewal fee has been paid and the 30 hours of continuing education (CE) have been met.</p> <p>** An "inactive" license means that the renewal fee has been paid but the 30 hours of CE have <u>not</u> been met. As a result, the licensee cannot practice or represent himself/herself as a licensee.</p> <p>*** A "delinquent" license means that the renewal fee has <u>not</u> been paid.</p> <p>**** The basis for denial of licensure is that the applicants' record of criminal convictions were substantially related to the practice of nursing. In general, the convictions were for substance abuse, sexual misconduct, violent crimes, dishonesty and/or unlicensed practice. Note: This figure includes licenses denied by the board and licenses denied via Statement of Issues.</p> <p>***** "Inactive" licenses were not applicable for PTs until after 7/1/94 when CE requirements were implemented.</p>								

License Renewal Requirements

LVNs and PTs are required to renew their license every two years. Satisfactory completion of continuing education is required for an "active" license in addition to a social security number. Licensees must also certify under penalty of perjury, that they have not been convicted of a crime since they last renewed.

Active License -- VN and PT licenses are considered "active" when the license is current (not expired or delinquent), and the 30 hours of continuing education requirements have been met.

Inactive License -- The VN Practice Act and the PT Law provide for an "inactive" status for licensees. A license is placed on inactive status when the renewal fee is paid and continuing education requirements have not been met. The licensee cannot practice or represent himself/herself as a licensee with an inactive license. To activate an "inactive" license, the licensee must submit proof of thirty hours of continuing education during the preceding two years.

Delinquent License -- A licensee may renew a *delinquent license* any time within four years of the expiration date by submitting the renewal fee and delinquency fee along with proof of continuing education and his/her social security number.

Expired License -- A license which is not renewed for four years expires. An expired license cannot be renewed, re-issued or reinstated. The licensee is required to submit a new application and retake the licensure examination to receive a new license.

CONTINUING EDUCATION/COMPETENCY REQUIREMENTS

Authority and Purpose

Business and Professions Code, Sections 2892.5 and 4517, provide authority for the board to establish continuing education (CE) programs for LVNs and PTs. The purpose of CE is to enhance consumer protection by ensuring that the licensee remains informed of current professional developments, issues, and trends in the treatment and delivery of client care and practices in her/his vocation. In turn, the licensee's provision of safe, competent patient care is enhanced. Patient care practices evolve rapidly as new technological advances are made, and as research substantiates the need for modification of treatment and care methodologies.

Curriculum and Compliance

After the first license renewal, LVNs and PTs are required to certify under penalty of perjury completion of *30 hours of CE within the 2 years immediately preceding license expiration. Courses must be related to the licensee's scope of practice.* The licensee must retain the provider certificate for a period of 4 years and produce it if audited by the board.

The CE regulations define criteria by which courses will be accepted by the board. The regulations specify that courses will be accepted if they are:

- approved by any nursing licensing agency or nursing organization in the United States;
- are prerequisites or part of a registered nursing program;

- are college/university courses related to the specific area of practice; or
- are courses which the board considers comparable to other approved CE courses.

Failure to document the required 30 hours of continuing education results in the license being placed on "inactive" status. Inactive status does not permit the licensee to practice.

Pursuant to authority granted in Business and Professions Code, Sections 2854 and 4503, the board established a post licensure compliance program. A random audit of the current active licensed population is conducted. *When audited, licensees are required to submit copies of provider certificates.* Those who have misrepresented CE compliance are referred to the Enforcement Unit for disciplinary action.

Continuing Education Provider Approval

The California Code of Regulations, Sections 2540.3 and 2592.3 provide for approval of course providers who wish to offer CE to LVNs and/or PTs. Typically, providers represent health care organizations, health education organizations, hospitals, pharmacies, clinical laboratories, and qualified individuals engaged in private enterprise. The board issues CE course application forms (specifying needed information such as instructor qualifications, post-course evaluation methods for the participant, and course objectives) to potential providers.

The board approves VN and PT provider applications when there are clearly stated measurable behavioral objectives for the course(s); the proposed course content is consistent with the nursing and medical profession; and content falls within the scope of practice of the licensee.

Although the board-approved CE Provider is not required to administer a test at the end of the CE course, most providers require the licensee to complete a pretest prior to completing the course and a post-test upon course completion. The CE Provider must then provide each licensee who meets the course requirements with a Course Completion Certificate which specifies the licensee's name; license number; title of the completed course; the date(s) of the course attendance and completion; the number of hours or units of credit granted; the CE provider number; and signature of the authorized instructor.

The cost range for CE courses, based on a board survey of 58 providers and participants is \$1.50 to \$11.00 per contact hour. The board seeks to ensure quality in CE directed toward its licensees by approving every course offered in accordance with the VN Practice Act and the PT Law.

PROFESSIONAL COMPETENCE

Information in periodicals such as American Psychologist, Professional Examination Service News, The Journal of Continuing Education in Nursing and others indicates that CE reduces professional obsolescence and incompetent practice. In turn, CE is a means of protecting the consumer. The board, licensees and professional organizations firmly believe that additional instruction in the field does help improve the licensee's knowledge and skills.

However, it may be useful to draw a distinction between CE that is undertaken voluntarily by conscientious, motivated practitioners, versus CE that is undertaken involuntarily by unwilling or unmotivated practitioners. While continuing education seems intuitively to be highly beneficial to licensees and the consumer public (especially for health care practitioners), there is no empirical evidence that demonstrates a clear conjunction between a CE mandate and improved practitioner competence.

ENFORCEMENT ACTIVITY

Enforcement Program Overview

This board's highest priority is its Enforcement Program and no expense is spared to ensure consumer protection. *The board spent an average of 42%-50% of its total budget on enforcement activities over the past four years.* In addition, the board implemented many cost-effective procedures to increase efficiency and reduce the amount of time to resolve consumer complaints, i.e., preparation of its own default decisions, remediation program, probation monitoring, use of Franchise Tax Board Intercept Program, etc.

The board's mission is to protect the health, safety and welfare of California consumers. The board achieves this mandate by ensuring that LVNs and PTs possess the requisite knowledge, skills and abilities to practice in a safe manner. Additionally, the board takes rigorous steps to discipline licensees who fail to provide safe and competent care to the public. The board's highest priority is its Enforcement Program and no expense is spared to ensure consumer protection.

Complaint and Disciplinary Statistical Summary

This chart provides a summary of BVNPTE complaints and disciplinary actions. Further program details and statistics appear below.

Fiscal Year 1995/96	VN PROGRAM	PT PROGRAM	TOTALS
Total # of Complaints Received	301	135	436
Total # of Disciplinary Actions Taken (e.g., Revocations; Suspensions; Probations)	111	37	148

Complaints involving LVNs most often are related to substance abuse, i.e., drug diversion (theft of drugs from an employer or employing facility); use or abuse of illegal or prescription drugs; prescription forgery; and alcohol abuse. Complaints involving PTs most often are related to patient or client abuse, both verbal and physical, i.e., assault, sexual misconduct, as well as substance and alcohol abuse.

The chart below reflects a more detailed view of the Enforcement Program "Complaint" statistics for the past four years:

	VN PROGRAM				PT PROGRAM			
	1992/93	1993/94	1994/95	1995/96	1992/93	1993/94	1994/95	1995/96
Enforcement Telephone Inquiries (VN/PT Programs)	841	862	834	1004				
Complaints Received	257	248	270	301	105	136	107	135
Complaints Dismissed	59	50	36	40	5	13	15	17
Complaints Pending	N/A	N/A	N/A	233	N/A	N/A	N/A	101
Informal Cases Closed*	99	129	100	123	79	66	55	62
Formal Cases Closed**	196	194	155	111	44	77	60	37
Total# of Complaints Closed	295	323	255	234	123	143	115	99
<p>* Informal cases are handled in-house by board staff and do not require investigation by the DCA's Division of Investigation (DOI).</p> <p>** Formal cases are those complaints which are referred to DOI for investigation and disciplinary action.</p>								

Program Development & Efficiencies

With approximately 114,000 licensees, the board regulates the largest group of LVNs and PTs in the nation. The board has taken proactive steps to ensure that its Enforcement Program is efficient and effective. The following program changes or efficiencies have been implemented:

- ◇ Fingerprint Requirement
- ◇ Record of Conviction Information Collected on Renewal Forms
- ◇ Performance Standards Defined
- ◇ Cite & Fine Program
- ◇ Cost Recovery Collection Program
- ◇ Board Decision to Serve Accusations & Statement of Issues;
- ◇ and Prepare its own Default Decisions
- ◇ Probation Monitoring Program
- ◇ Remediation Program
- ◇ Monitoring Hours Expended for Investigations
- ◇ Monitoring Hours Billed by the AG

Overview Of Complaint & Disciplinary Process

The following chart summarizes the major steps involved from complaint receipt, to investigation, to formal disciplinary procedures, to final action by the board.

PROCEDURES "IN BRIEF" DCA = Department of Consumer Affairs DOI = DCA Division of Investigation AG = Attorney General's Office		ASSIGNED TO:	APPROXIMATE TIME FRAMES FOR COMPLETION
1.	Complaint received; entered onto DCA Enforcement Tracking System; and acknowledgment letter sent to complainant.	Office Technician	1-2 days
2.	Complaint reviewed by board to determine jurisdiction and if case will be handled as an in-house investigation or assigned to DOI.	Enforcement Analyst	5-10 days
3.	Informal investigation conducted by board staff.	Enforcement Analyst	35-40 days
4.	Formal investigation conducted by DOI.	DOI	6-9 months
5.	Expert opinion required for cases involving gross negligence and/or incompetence (professional consultant).	Professional Consultant	15-30 days
6.	Review of "final" DOI report and expert opinion (if applicable) to determine the appropriate course of action based upon evidence.	Enforcement Manager	1-5 days
7.	If allegations were sustained but violation does not warrant revocation, suspension, or license probation, the board may issue a Citation/Fine; refer to Remediation Program; or issue an Advisement Letter.	Enforcement Analyst	Various
8.	Allegations sustained and the licensee's continued practice poses a threat to consumers, the case is forwarded to the AG.	Enforcement Analyst	1-5 days

9.	If violation was not substantiated the complaint is closed. The complainant and respondent are notified, by mail, of this action.	Enforcement Analyst	1-5 days
10.	AG must prepare Accusation or Statement of Issues.	Deputy Attorney General	4 months
11.	The Accusation/Statement of Issues is received from the AG. The document must be reviewed and approved by the board.	Executive Officer	1-5 days
12.	The Accusation/Statement of Issues is served, by mail, to respondent.	Office Technician	1 day
13.	If respondent fails to file Notice of Defense within 15 days, a Default Decision is prepared by board staff and mailed to the full board for adoption.	Enforcement Analyst	15-30 days
14.	Upon adoption of Default Decision, the respondent is notified, by mail, that license is revoked 30 days after service.	Enforcement Analyst	5-7 days
15.	If the respondent files a Notice of Defense, the Deputy Attorney General must request a hearing with the Office of Administrative Hearings (OAH).	DAG and OAH	3-6 months or in Southern CA 6-10 months
16.	Upon completion of Administrative Hearing, the Administrative Law Judge has 30 days to prepare a written "Proposed Decision" for board action.	OAH's ALJ	30 days
17.	Upon receipt of Proposed Decision, the board members are sent mail ballots to either: adopt; Non-adopt and request hearing transcript; or Non-adopt and reduce the penalty.	board members	15-45 days
18.	Upon adoption of Proposed Decision, the respondent is notified that action is effective 30 days after service by mail.	Enforcement Analyst	5-7 days

Other Enforcement Actions employed by the board include: temporary restraining orders (TRO); interim suspension orders (ISO); cease & desist orders; disciplinary guidelines; mandatory reporting requirements

Enforcement Costs

The board allocates approximately **42% - 50%** of its budget to enforcement activities. The chart below reflects the board's *enforcement costs* for the past four years.

	VOCATIONAL NURSE PROGRAM				PSYCHIATRIC TECHNICIAN PROGRAM			
	1992/93	1993/94	1994/95	1995/96	1992/93	1993/94	1994/95	1995/96
ENFORCEMENT COST BREAKDOWN								
DOI	\$500,604	\$629,603	\$726,405	\$585,263	\$187,565	\$122,994	\$269,220	\$278,587
AG	\$362,896	\$351,378	\$300,225	\$390,242	\$173,820	\$113,786	\$114,368	\$137,031
OAH	\$122,704	\$105,986	\$ 61,297	\$106,989	\$ 63,144	\$ 60,204	\$ 54,221	\$ 56,559
Expert Witness	\$ 7,063	\$ 21,636	\$ 8,720	\$ 9,393	\$ 896	\$ 2,227	\$ 4,584	\$ 6,312
Staff & Operating Expenses	\$381,116	\$398,754	\$382,698	\$393,140	\$ 65,248	\$ 72,305	\$ 65,250	\$ 68,806
Total Cost of Enforcement	\$1,374,383	\$1,507,357	\$1,479,345	\$1,485,027	\$490,673	\$371,516	\$507,643	\$547,295
Total Budget Authority:	\$3,465,801	\$3,499,691	\$3,521,327	\$3,513,728	\$1,017,623	\$894,074	\$1,040,325	\$1,067,811
Enforcement % of Total Budget	40%	43%	42%	42%	48%	42%	49%	51%
"HOURLY" COST FOR LEGAL SERVICES (FOR BOTH VN & PT PROGRAMS)								
Investigator	\$87.69	\$88.74	\$99.29	\$89				
Attorney General	\$90	\$90	\$95	\$98				
Administrative Law Judge	\$113	\$115	\$119	\$125				

COMPLAINT DISCLOSURE POLICY

In accordance with the Information Practices Act and the Public Records Act, it is the board's policy that the public may receive, upon request, the number of complaints which, after investigation, have been found by the board to be violations of the licensing law or regulations. With respect to each such complaint, the public may be provided with the date of receipt and disposition. Once an Accusation or Statement of Issues is filed, it is public information and may be disclosed upon request.

COST RECOVERY AND RESTITUTION TO CONSUMERS

COST RECOVERY	FY 1992/93	FY 1993/94	FY 1994/95	FY 1995/96
Received	n/a	\$3,388	\$6,814	\$8,658
Requested	n/a	\$3,388	\$35,717	\$70,396

Note: FY 94/5 and 95/6 ratio of amount awarded to amounts collected reflect the fact that payments are typically amortized over the duration of a licensee's probation period.

CONSUMER OUTREACH AND EDUCATION

The board has developed numerous brochures and fact sheets to educate consumers on the scope of practice of an LVN and PT. The brochures are:

- ◇ For Your Health Care... Know Your Rights
- ◇ The Disciplinary Process...Know Your Rights
- ◇ PRN Newsletter
- ◇ Disciplinary Action Lists
- ◇ Fact Sheets (LVN/PT)
- ◇ Occupational Guides (LVN/PT)
- ◇ Consumer Survey
- ◇ 1996 Accredited School Lists (LVN/PT)

The board uses a variety of methods to disseminate this information cost-effectively to the public through distribution at various consumer fairs and mailings to all professional organizations, health facilities, state hospitals and pertinent state agencies.

2.

IDENTIFIED ISSUES AND FINAL RECOMMENDATIONS OF THE JOINT LEGISLATIVE SUNSET REVIEW COMMITTEE

ISSUE #1. Should the licensing of vocational nurses and psychiatric technicians be continued?

Recommendation: *The State of California should continue to license and regulate Vocational Nurses (LVNs) and Psychiatric Technicians (PTs).*

Comment: There is substantial risk of harm to the public with unlicensed personnel performing the tasks of licensed LVNs and PTs. LVNs and PTs provide basic nursing care to patients. However, even the simplest procedures can cause serious harm, including death, if performed incorrectly. The fact that only three other states license PTs similar to California seems initially to favor a lesser degree of regulation, perhaps certification rather than licensure. However, several factors favor continued licensure: (1) the critical nature of the services provided by PTs; (2) the extraordinary vulnerable and dependent nature of the population served by PTs; (3) the apparent cost effectiveness of this relatively small program; and, (4) the multiple paths to entry into the PT occupation, which leads to the conclusion that licensure does not constitute an unreasonable barrier of entry into this profession.

ISSUE #2. Should the Board of Vocational Nursing and Psychiatric Technician Examiners be continued as an independent board, merged with another health related board, or should its operation and functions be assumed by the Department of Consumer Affairs?

Recommendation: *The Board should continue as the agency responsible for the regulation of vocational nurses and psychiatric technicians.
As such, legislation should be enacted to continue the Board and require a subsequent sunset review in six years.*

Comment: Merging this Board with that of the Board of Registered Nursing has been considered in the past. There was no indication that merging the Boards would improve consumer protection, or provide any cost savings. Merging these two boards would create inefficiency, as the number of candidates and licensees would be overwhelming for a single agency to handle (over 364,000 licensees). There is also no evidence that creation of a bureau under DCA would lead to any cost savings, or improve the effectiveness and efficiency of the licensing program.

ISSUE #3. Should the composition of the Board be changed?

Recommendation: *The composition of the Board should be changed to ensure a public member majority as recommended by the Board.*

Comment: There is currently a majority of professionals on the Board with a total of 11 members: 3 licensed vocational nurses, 2 licensed psychiatric technicians, 1 registered nurse or vocational nurse who is a school teacher or administrator, and 5 public members. The Board is recommending to change the Board to a public majority by changing an LVN position to a public member position resulting in 6 public members and 5 professional members. DCA generally recommends a public member majority and applauds the Board's recommendation.